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RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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May 26, 2011

The Honorable Fred Upton
Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Cliff Stearns
Chairman
Subcommittee on Oversight and Investigations
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton and Chairman Stearns:

We are writing to request that the Energy and Commerce Committee hold hearings into the use of hydraulic fracturing in natural gas production. While hydraulic fracturing and the increased use of natural gas hold great promise, it is essential that the technique be adequately regulated to prevent risks to health and the environment. A Committee hearing would give members a better understanding of these issues and an opportunity to assess the need for appropriate legislation.

There are many recent developments involving hydraulic fracturing that the Committee should consider. This year alone, investigative reports we have released, peer-reviewed studies of shale gas production, news reports of spills and contamination, and regulatory action in three different agencies have raised numerous concerns about the practice of hydraulic fracturing,

In January, as Ranking Members of the Energy and Commerce Committee, the Natural Resources Committee, and the Energy and Commerce Committee Subcommittee on Oversight and Investigations, respectively, we sent a letter to EPA Administrator Lisa Jackson raising concerns about the contents of fluids used in hydraulic fracturing. We informed the Administrator that our investigation uncovered documents showing that contrary to federal law, oil and gas service companies had injected more than 30 million gallons of diesel fuel or fluids

containing diesel fuel during hydraulic fracturing of natural gas wells from 2005 to 2009.¹ In April, we released a second analysis showing that these companies used millions of gallons of hydraulic fracturing products containing 29 chemicals that are known or possible human carcinogens, regulated under the Safe Drinking Water Act for their risks to human health, or listed as hazardous air pollutants under the Clean Air Act. The same analysis found that the companies used 94 million gallons of hydraulic fracturing fluids containing “proprietary” or “trade secret” compounds, often without full knowledge of their risks or hazard profiles.²

In recent months two peer-reviewed scientific studies have raised serious questions about the environmental and human health impacts of shale gas production. In March, researchers from Cornell University published a study in the scientific journal *Climatic Change* concluding that methane emissions over the lifecycle of shale gas production are higher than previously estimated. According to these researchers, a more accurate accounting would show that the greenhouse gas footprint of shale gas is greater than the greenhouse gas footprint of coal.³ Researchers from Duke University added to the debate, publishing a paper in the *Proceedings of the National Academy of Sciences* that found a correlation between shale drilling activity and the seepage of contaminants, particularly methane, into drinking water wells.⁴ The natural gas industry has been sharply critical of both studies, but has to date provided little substantive information to rebut the scientific claims.⁵

Recent reports of spills and insufficient disposal of hydraulic fracturing wastewater have also increased public attention to issues surrounding shale gas production. On April 19, an accident during hydraulic fracturing of a Pennsylvania shale gas well operated by Chesapeake

¹ Letter from Ranking Member Henry A. Waxman, Ranking Member Edward J. Markey, and Ranking Member Diana DeGette to EPA Administrator Lisa Jackson (Jan. 31, 2011).

² House Energy and Commerce Committee Minority Staff Report, *Chemicals Used in Hydraulic Fracturing* (Apr. 18, 2011).

³ See *Methane and the Greenhouse-Gas Footprint of Natural Gas from Shale Formations*, *Climatic Change* (Mar. 13, 2011).

⁴ See *Methane Contamination of Drinking Water Accompanying Gas-Well Drilling and Hydraulic Fracturing*, *Proceedings of the National Academy of Sciences* (Apr. 2011).

⁵ See, e.g., *Scientists Speak: Howarth Study Wrong*, America’s Natural Gas Alliance (Apr. 15, 2011) (online at <http://www.anga.us/media-room/blog/2011/4/15/scientists-speak-howarth-study-wrong>) (accessed Apr. 21, 2011); *API Responds to Bunk Study on Natural Gas*, American Petroleum Institute (Apr. 12, 2011) (online at <http://www.api.org/Newsroom/natural-gas-study.cfm>) (accessed Apr. 21, 2011); *Industry Disputes Study on Methane Leaks*, Natural Gas Intelligence (Apr. 18, 2011); *Study Finds Methane Contamination Rises Near Shale Gas Wells*, E&E Daily (May 9, 2011).

Energy resulted in a spill of thousands of gallons of fracturing fluids and evacuation of at least 100 nearby residents.⁶ An investigative report in the *New York Times* also cast doubt on the safety of wastewater disposal practices of oil and gas producers. According to that report, much of the wastewater generated by hydraulic fracturing in Pennsylvania ended up at water treatment plants that were “not equipped to remove many of the toxic materials in drilling waste.”⁷

At the federal level, the Obama Administration is taking several steps to address concerns about shale gas production that the Committee should examine. In 2010, Congress directed EPA to undertake a study of the practice of hydraulic fracturing and its impact on drinking water and groundwater. That study is underway, and the agency expects to release initial findings next year and to issue a complete report in 2014.⁸ In addition, in response to the results of our investigation, EPA is developing guidance for the use of products containing diesel fuel during hydraulic fracturing.⁹ As part of his national energy strategy, President Obama directed Energy Secretary Steven Chu to convene a panel of experts to provide recommendations to improve the safety of hydraulic fracturing and to provide consensus advice to state and federal regulatory agencies to ensure protection of public health and the environment.¹⁰ Separately, the Interior Department is considering whether to issue regulations concerning hydraulic fracturing on public lands.¹¹ You have criticized the Administration’s efforts to address hydraulic fracturing, calling the Energy Department’s efforts a “waste [of] government resources” and asserting that “there are too many cooks in the kitchen,” but you have not provided the Administration an opportunity to respond to these concerns.¹²

At the state level, in response to concerns over industry’s refusal to identify the contents of hydraulic fracturing fluids, several states have passed legislation requiring some level of

⁶ See *Chesapeake Spill Heightens Pressure*, Wall Street Journal (Apr. 28, 2011).

⁷ *Regulation Lax as Gas Wells’ Tainted Water Hits Rivers*, New York Times (Feb. 26, 2011).

⁸ EPA, *EPA Submits Draft Hydraulic Fracturing Study Plan to Independent Scientists for Review* (Feb. 8, 2011).

⁹ See *EPA Starts Work on Diesel Fracking Guidance*, New York Times (Apr. 29, 2011).

¹⁰ See *Chu Names Panel to Study Fracking*, New York Times (May 6, 2011).

¹¹ See *EPA Close to Launching Hydraulic Fracturing Study*, Houston Chronicle (Feb. 2, 2011).

¹² House Energy and Commerce Republicans, *Administrations’ Inefficiencies Exposed: Plans for Yet Another Study on Fracking Wastes Federal Funds on Duplicative [sic]* (May 5, 2011) (online at <http://energycommerce.house.gov/news/PRArticle.aspx?NewsID=8563>) (accessed May 13, 2011).

disclosure by oil and gas service providers, and at least six more are considering such legislation.¹³ Reports of drillers dumping hydraulic fracturing wastewater into ill-equipped wastewater treatment plants led Pennsylvania regulators to seek voluntary changes in the way these companies dispose of fracturing by-products.¹⁴

The natural gas industry has also taken action in response to concerns, creating a public database of fluid components. There are, however, several questions about the information in this database, as reporting is strictly voluntary, disclosure will not include the chemical identity of products labeled as proprietary, and there is no way to determine if companies are accurately reporting information for all of the wells in which hydraulic fracturing is used.¹⁵

Several congressional committees have held hearings this Congress to examine the growing body of data about the promise of shale gas production and its potential threats to the environment and public health. On May 11, 2011, the House Science, Space, and Technology Committee held a hearing titled “Hydraulic Fracturing Technology and Practices.”¹⁶ On May 6, 2011, the House Oversight and Government Reform Committee convened a field hearing on the subject.¹⁷ The Oversight Committee held an additional hearing on May 24 about domestic oil and gas production, and hydraulic fracturing was one of the key topics covered.¹⁸ On April 12, the Senate Environment and Public Works Committee held a hearing on hydraulic fracturing titled “Natural Gas Drilling: Public Health and Environmental Impacts.”¹⁹ And on May 10, 2011, the Senate Energy and Natural Resources Committee held a hearing on “new

¹³ See, e.g., WCWR 055-000-003 Sec. 45; Arkansas Oil and Gas Commission Rule B-19; *Texas Could Lead Way in Gas Drilling Disclosure*, Houston Chronicle (May 12, 2011).

¹⁴ See *Gas Drillers Asked to Change Method of Waste Disposal*, New York Times (Apr. 19, 2011).

¹⁵ See *Ground Water Protection Council Calls for Disclosure of Chemicals Used in Shale Gas Exploration*, Ground Water Protection Council (Oct. 5, 2010) (online at <http://www.wqpmag.com/Ground-Water-Protection-Council-Calls-for-Disclosure-of-Chemicals-in-Shale-Gas-Exploration-newsPiece21700>) (accessed May 13, 2011).

¹⁶ House Science, Space, and Technology Committee, *Hydraulic Fracturing Technology and Practices*, 112th Cong. (2011).

¹⁷ House Oversight and Government Reform Committee, *Pathways to Energy Independence: Hydraulic Fracturing and Other New Technologies*, 112th Cong. (May 6, 2011).

¹⁸ House Oversight and Government Reform Committee, *Pain at the Pump: Policies that Suppress Domestic Production of Oil and Gas*, 112th Cong. (May 24, 2011).

¹⁹ Senate Environment and Public Works Committee, *Natural Gas Drilling: Public Health and Environmental Impacts*, 112th Cong. (Apr. 12, 2011).

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developments in upstream oil and gas technologies,” that specifically addressed hydraulic fracturing.²⁰


Despite the wealth of new information about hydraulic fracturing, and the hearings held by other Committees in the House and Senate, the Energy and Commerce Committee has not held a single hearing to address the questions raised about shale gas development over the course of this year. We think this is a mistake given the Committee’s extensive jurisdiction over national energy policy. There are serious questions about hydraulic fracturing and the appropriate federal response that should receive our scrutiny.

For these reasons, we respectfully ask that you schedule a hearing on hydraulic fracturing as soon as reasonably possible.

Sincerely,



Henry A. Waxman
Ranking Member
Committee on Energy and
Commerce



Edward J. Markey
Ranking Member
Committee on Natural
Resources



Diana DeGette
Ranking Member
Subcommittee on Oversight
and Investigations

²⁰ Senate Energy and Natural Resources Committee, *Hearing on New Developments in Upstream Oil and Gas Technologies*, 112th Cong. (May 10, 2011).